

**STATE OF TENNESSEE**

OFFICE OF THE  
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Opinion No. 05-032

County Regulation of Junkyards via Private Acts

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**QUESTIONS**

1. Can Warren County legally use Chapter 75 of the Private Acts of 2000, which is known as the “Warren County Junkyard/Scrapyard and Landfill Regulations Act of 2000,” to enforce junkyard restrictions along county roads?
2. Is that private act compatible with Tennessee public statutes governing junkyards along state highways?

**OPINIONS**

1. Tenn. Code Ann. § 54-20-109 and § 54-20-122 specifically allow regulation of junkyards by local government. A private act is an appropriate way to put such regulations in place. By enacting Chapter 75 of the Private Acts of 2000, the Tennessee General Assembly has granted Warren County the authority to enforce junkyard restrictions along county roads in Warren County.
2. While Chapter 75 may appear to be incompatible with Tenn. Code Ann. §§ 54-20-101, *et seq.* and §§ 54-20-201, *et seq.* (the public statutes that regulate junkyards located along or near state highways) because Chapter 75 imposes less stringent setback requirements for junkyards located along state highways than are required by general law, Section 4 of Chapter 75 expressly provides that “[i]f any of the provisions of this act conflict with the provisions of general law, by being less stringent than the general law requirements or otherwise, then the general law provisions shall govern the matter at issue”. Thus, this private act is compatible with Tennessee public statutes governing junkyards along state highways.

**ANALYSIS**

1. The Federal Highway Beautification Act of 1965 declared that the establishment and maintenance of junkyards adjacent to both interstate and primary system roads “should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.” 23 U.S.C.A. § 136(a). As enacted, the federal

legislation authorized the United States Secretary of Commerce to withhold ten percent of federal highway funds from states that by the beginning of 1968 “ha[d] not made provision for effective control” of junkyards and automobile graveyards. 23 U.S.C.A. § 136(b). Tennessee enacted laws requiring automobile junkyards to be set back at least 500 feet from state highways and even further from U.S. numbered highways. *See* Tenn.Code Ann. § 54-20-202. These laws, similar to the federal law, were concerned with preserving and protecting the “natural scenic beauty as well as aesthetic values” involved in laying out a road system and required persons maintaining automobile junkyards to erect fences or hedges around their establishments to conceal their automobile graveyard or junkyards from persons or highways. Tenn.Code Ann. § 54-20-203.

In 1967, the Tennessee General Assembly accelerated its regulation of junkyards and automobile graveyards with enactment of the Junkyard Control Act of 1967. *See* Tenn.Code Ann. §§ 54-20-101 through 124. The 1967 Act was more detailed than the 1965 legislation, defining legal terms and providing procedures for screening in junkyards and automobile graveyards, including the empowerment of the Tennessee Department of Transportation to screen in property or acquire interest in the land covered by a junkyard or automobile graveyard for purposes of relocating it. The 1967 Act also expressly recognized that the State of Tennessee might enter into agreements with the federal Secretary of Transportation to enforce the Federal Highway Beautification Act in Tennessee.

Both the Federal Act and the 1967 State Act permit local control of junkyards and automobile graveyards. The Federal Act provides that states could establish “standards imposing stricter limitation with respect to outdoor junkyards . . . than those established [by the federal law].” 23 U.S.C.A. § 136(1). Similarly, the 1967 State Act authorizes local regulation of junkyards and automobile graveyards by providing that nothing in the State Act should be construed “to abrogate or affect the provisions of any lawful ordinances, regulations, or resolutions [that] are more restrictive than the provisions of this [Act].” Tenn.Code Ann. § 54-20-109. *See also* Tenn.Code Ann. § 54-20-122.

Such local regulation may be provided in the form of a private act, as the Court of Appeals of Tennessee opined in *Smith County v. Enoch*, 2003 WL 535914 (Tenn. Ct. App.). In *Enoch*, the Court was asked to determine if Smith County could enforce a private act to regulate junkyards. In upholding the validity of the “Smith County Junkyard Control Act,” the Court ruled:

Localities are thus left free under the statewide laws to regulate junkyards and automobile graveyards more than the state does. In this case, the 1987 [Smith County] Private Acts are effectively county specific regulations.

*Id.* at 4. Thus, the Court sustained a private act similar to Chapter 75 and a county’s authority to regulate junkyards via such an act.

Tennessee courts have held that the Legislature may enact a private act:

affecting one particular county or municipality alone in its political or governmental capacity provided such special act is not contrary to the provisions of a general law, applicable to all the counties or municipalities.

*Davidson County v. City of Nashville*, 190 Tenn. 136, 228 S.W.2d 89 at 139. Chapter 75 of the Private Acts of 2000 does not contravene or suspend the general law. In fact, Chapter 75 is harmonious with and supplemental to the general law as stated in Tenn. Code Ann. §§ 54-20-101, *et seq.* and Tenn.Code Ann. §§ 54-20-201, *et seq.*

The Warren County private act is quite similar to the Smith County private act upheld in *Enoch*. Both Tenn. Code Ann. § 54-20-109 and § 54-20-122 allow for equal or greater restriction of junkyards by local government. Warren County may use Chapter 75 to enforce junkyard restrictions along county roads in Warren County.

2. Tenn. Code Ann. § 54-20-109 and § 54-20-122 allow local regulation of junkyards, provided that such restriction is at least as stringent as the general law. As long as Chapter 75 of the Private Act of 2000 is as restrictive as the general law relating to junkyards along state highways, it is compatible.

Tenn. Code Ann. §§ 54-20-101, *et seq.* and §§ 54-20-201, *et seq.* regulate junkyards and automobile graveyards located along state and federal roadways. The Warren County private act applies to every junkyard in Warren County, including those along state highways. 2000 Tenn. Priv. Acts Ch. 75, § 4. Setback requirements in the Warren County private act are generally more restrictive than the general law since they require setbacks from all property lines, subdivision lots, and from specified improvements. However, the setback requirements imposed by that private act for junkyards located along state highways are less restrictive than the general law. Chapter 75 requires only one hundred-foot setbacks from “any city, county or state right-of-way.” *Id.* at Section 4(2)(A).

Tenn. Code Ann. § 54-20-104 establishes:

No person shall establish, operate, or maintain a junkyard, any portion of which is within one thousand feet (1,000') of the nearest edge of the right-of-way of any interstate or primary highway.

Section 54-20-104 makes some exceptions for areas with industrial zoning and for junkyards which are not visible from the main roadway. Also, Tenn. Code Ann. § 54-20-202 (a) provides that:

[n]o automobile graveyard should hereafter be established within five hundred feet (500') of any state highway in this state nor shall any automobile graveyard hereafter be established within one thousand

feet (1,000') of any state highway in this state designated as a United States route by the American Association of State Highway Officials as through routes where official signs designating such highway have been erected indicating the same to be a United States numbered highway.

Again, an exception is made for areas zoned or designated for use as an automobile graveyard by the city or county in which it is to be established. Tenn.Code Ann. § 54-20-202(b).

With the less stringent setback restriction for junkyards located along state highways, the Warren County private act appears incompatible with general state law. However, this defect is cured by Section 4 of the act which states:

If any of the provisions of this act conflict with the provisions of general law, by being less stringent than the general law requirements or otherwise, then the general law provisions shall govern the matter at issue.

2000 Tenn. Priv. Acts Ch. 75, § 4. Since the only requirement for local regulation of junkyards is that it be at least as stringent as general law, the savings clause harmonizes the Warren County private act with the Tenn. Code Ann. §§ 54-20-101, *et seq.* Accordingly, this private act is compatible with general state law governing junkyards located along state highways.

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